

The Commonwealth of Massachusetts
EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY
STATE 911 DEPARTMENT

1380 Bay Street, Building C ~ Taunton, MA 02780-1088
Tel: 508-828-2911 ~ TTY: 508-828-4572 ~ Fax: 508-828-2585
www.mass.gov/e911



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Governor

TIMOTHY P. MURRAY
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and Security

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Executive Director

Received & Inspected

APR 12 2011

FCC Mail Room

April 11, 2011

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

RE: PS Docket No. 09-14; OMB Control Number 3060-1122; Third Annual 911 Fee
Information Collection Mandated by the New and Emerging Technologies Improvement
Act of 2008

Dear Ms. Dortch:

I am the Executive Director of the Massachusetts State 911 Department ("Department"), and on behalf of the Department, I am submitting this information as requested in Public Notice OMB Control Number 3060-1122.

- **The Commonwealth of Massachusetts has established a funding mechanism designated for or imposed for the purposes of 911 or E911 support or implementation.** Massachusetts General Laws ("M.G.L.") Chapter 6A Section 18H(a), as amended by Section 8 of Chapter 223 of the Acts of 2008, imposes a surcharge on each subscriber or end user whose communication services are capable of accessing and utilizing an enhanced 911 system. M.G.L. Chapter 6A Section 18H(d), as amended by Section 8 of Chapter 223 of the Acts of 2008, states that "The surcharge revenues shall be expended for the administration and programs of the department including, but not limited to, salaries, enhanced 911 training programs, enhanced 911 public education programs, the creation of PSAP customer premise equipment for, and maintenance of, primary and regional PSAPs, the programs mandated by section 18B and sections 14A and 15E of chapter 166, and for the implementation and administration of enhanced 911 service in the commonwealth."
- **The current amount of the surcharge imposed is 75 cents per month per line on each subscriber or end user whose communication services are capable of accessing and utilizing an enhanced 911 system. The total amount remitted to the Department**

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pursuant to the assessed surcharges, for the annual period ending December 31, 2010 was \$75,125,185.59. This 75 cent surcharge has been imposed on users of wireline, wireless, prepaid wireless, VoIP and IP-enabled services. The breakdown of surcharge funds remitted is as follows: wireline: \$25,388,828.99; wireless: \$47,253,679.10; prepaid wireless: \$1,680,869.87; and VoIP: \$801,807.63.

- Funds collected are made available to communities in Massachusetts for network, database and CPE; PSAP personnel; PSAP facilities; PSAP CAD and technology; dispatcher training; and PSAP supplies. These funds are made available to the communities by the Department directly purchasing, installing and maintaining enhanced 911 customer premise equipment used by communities at local and regional PSAPs and through the Department developing and administering grant programs to assist PSAPs and regional emergency communications centers in providing enhanced 911 service and fostering the development of regional PSAPs, regional secondary PSAPs and regional emergency communications centers.** M.G.L. Chapter 6A Section 18B (f), as amended by Section 8 of Chapter 223 of the Acts of 2008, states that “The department shall disburse funds from the Enhanced 911 Fund for prudently-incurred expenses associated with: the lease, purchase, upgrade or modification of primary and regional PSAP customer premise equipment and the maintenance of such equipment; network development, operation and maintenance; database development, operation, and maintenance; training of 911 telecommunicators regarding the receipt and use of enhanced 911 service information; education of consumers regarding the operation, limitation, role and responsible use of enhanced 911 service; grants associated with enhanced 911 service as set forth in subsection (i) and any other grant approved by the department associated with providing enhanced 911 service in the commonwealth; the recurring and nonrecurring costs of communication services providers in providing enhanced 911 service in the commonwealth to the extent required by federal or Massachusetts law or regulation or federal or Massachusetts agency decision or order; and other expenses incurred by the state 911 department in administering and operating the enhanced 911 system in the commonwealth.” The Department has established written guidelines for all grants administered under the authority of M.G.L. Chapter 6A Section 18B (i), as amended by Section 8 of Chapter 223 of the Acts of 2008, which allow communities to apply directly to the Department to receive grant funding for 911 related activities specified in that section. These guidelines may be found on the Department’s website at www.mass.gov/e911.
- The Massachusetts State 911 Department and the Massachusetts State 911 Commission (“Commission”) and the Department of Telecommunications and Cable are the entities that have the authority to approve the expenditure of funds collected for 911 or E911 purposes within Massachusetts.** As referenced above, M.G.L. Chapter 6A Section 18B (f), as amended by Section 8 of Chapter 223 of the Acts of 2008, explicitly authorizes the Department to disburse funds from the Enhanced 911 Fund for specific E911 purposes (described above). M.G.L. chapter 6A Section 18B (b) as amended by Section 8 of Chapter 223 reserves specific approval authority of grant distribution formulas and major contracts for the Commission which is made up of eight

state public safety and disability agency heads and 11 members appointed by the Governor representing various 911 related constituencies. Section 18B(b) states in relevant part: "The commission shall review and approve by a majority vote of those members present all formulas, percentages, guidelines or other mechanisms used to distribute the grants described in section 18B, and all major contracts that the department proposes to enter into for enhanced 911 services." Additionally, Section 18 B grants the Department of Telecommunications and Cable certain approval authority over expenditures of 911 related funds by the Department.

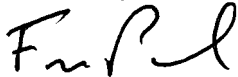
- **All funds collected for E911 purposes have been made available or used for the implementation or support of 911 or E911.** The enabling language for the Enhanced 911 Fund explicitly requires E911 surcharge funds and any additional E911 related funds collected in Massachusetts to be used only for E911 support and implementation purposes. M.G.L. Chapter 10 Section 35 JJ(a), as added by Section 13 of Chapter 223 of the Acts of 2008, states: "There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Enhanced 911 Fund. There shall be credited to such fund all revenues received by the commonwealth from: surcharges imposed under section 18H of chapter 6A; appropriations; gifts, grants, contributions and bequests of funds from any department, agency or subdivision of federal, state or municipal government, and any individual foundation, corporation, association or public authority; revenue derived from the investment of amounts credited to the fund; and any federal funds made available for emergency telecommunication services. The fund shall be used solely for the purposes described in sections 18A to 18J, inclusive, of said chapter 6A."
- **No funds collected for 911 or E911 purposes have been made available or used for any purposes other than ones designated by the statutory funding mechanism or used for any purposes otherwise unrelated to 911 or E911 implementation or support in the Commonwealth of Massachusetts.**
- **Other Comments:** The Department appreciates this opportunity to comment and wishes to inform the Public Safety and Homeland Security Bureau that we most strongly support the NET 911 Act's requirements that fees or charges collected for support or implementation of 911 or enhanced 911 services be obligated or expended only in support of 911 and enhanced 911 services or enhancements of such services, as specified in the provision of State or local law adopting the fee or charge. The Department strongly urges the Federal Communications Commission and Congress to continue to maintain such requirement. Guaranteeing that 911 related funds collected by states or other applicable political subdivisions be solely and exclusively dedicated to 911 support and enhancement is crucial to ensure adequate 911 services are available to all citizens and such a requirement is becoming even more critical with today's climate of a declining economy that is impacting the ability of state and local governments to provide services along with the simultaneous rapid changes and evolution of technology used by

wireless telecommunications and IP-based devices that consumers are more frequently using to attempt to contact 911 in their time of need.

If you have any questions regarding this filing, please feel free to contact me at 508-821-7215 or by email at frank.pozniak@state.ma.us.

Thank you very much.

Sincerely,

A handwritten signature in black ink, appearing to read 'Frank Pozniak', with a stylized flourish at the end.

Frank Pozniak
Executive Director

cc: Curtis Wood, Undersecretary for Forensic Sciences and Technology,
Massachusetts Executive Office of Public Safety and Security
Benjamin Dobbs, Acting Director, Competition Division, Massachusetts
Department of Telecommunications and Cable
Kerri DeYoung, Counsel, Competition Division, Massachusetts Department of
Telecommunications and Cable